

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:

CALUMET ABRASIVES CO. INC.,

Debtor(s)

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CASE NO.: 19-21257

CHAPTER 11

DEBTOR'S MOTION TO VOLUNTARILY DISMISS CASE

Comes now Debtor, Calumet Abrasives Co., Inc., ("Debtor"), by and through its attorney, and files this Motion to Voluntarily Dismiss Case ("Motion"), and respectfully requests this Honorable Court enter an order, pursuant to Bankruptcy Code § 1112(b) and Rules 1017 and 9014 of the Federal Rules of Bankruptcy Procedure, granting a voluntary dismissal of this Chapter 11 case. In support of this Motion, Debtor respectfully states as follows:

Background

1. On May 7, 2019, Debtor filed its Petition for Relief under Chapter 11 of Title 11 of the United States Code ("the Bankruptcy Code").
2. No creditors' committee, Trustee or examiner has been appointed in this case.
3. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b).
4. The statutory predicates for the relief requested herein are Section 1112(b) of the Bankruptcy Code and Rules 1017 and 9014 of the Federal Rules of Bankruptcy Procedure.

Chapter 11 Proceeding

5. As of the Petition Date, it was Debtor's intention to restructure its operations to be able to operate more profitably and to meet its obligations and to continue the operation of the abrasive business.

6. When the order to deny Debtor's Motion for Use of Cash Collateral was entered on January 10, 2020, the same effectively handcuffed the Debtor from being able to operate or effectively reorganize. Debtor has been unable to amicably resolve its disputes with its primary creditor, First Midwest Bank, and it is unlikely to obtain approval of the sale of its assets.

7. Debtor asserts that it is in the best interests of Debtor and Debtor's creditors that this case be dismissed.

Relief Requested

8. Section 1112(b)(1) of the Bankruptcy Code provides as follows:

On request of a party-in-interest, and after notice and a hearing, absent unusual circumstances specifically identified by the court that establish that the requested conversion or dismissal is not in the best interests of creditors and the estate, the court shall convert a case under this chapter to a case under Chapter 7 or dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, if the movant establishes cause.

11 U.S.C. § 1112(b)(1).

9. A Chapter 11 case can be dismissed at any time. *In re Woodbrook Assoc.*, 19 F.3d 312, 316 (7th Cir. 1994). The very purpose of § 1112(b) is to cut short this plan and confirmation process where it is pointless. *Id.*

10. A decision to dismiss a Chapter 11 proceeding pursuant to Section 1112(b) is one committed to the Court's discretion. *In re Bartle*, 560 F.3d 724, 730 (7th Cir. 2009); *Fruehauf v. Jartran, Inc.*, 886 F.2d 859, 868 (7th Cir. 1989).

11. With the unresolvable disputes between Debtor and Debtor's creditors, the continued pursuit of this case would be futile and would require continued payment by Debtor of obligations that it cannot afford without the use of cash collateral. The dismissal of this bankruptcy case is in the best interests of the Debtor and Debtor's creditors and will allow the Creditors to pursue their claims and collateral in the state court forums.

WHEREFORE, Debtor respectfully requests this Court enter an Order, pursuant to Section 1112(b) of the Bankruptcy Code, granting a voluntary dismissal of this case and such other and further relief as the Court deems just and proper in the circumstances.

Respectfully submitted:

DANIEL L. FREELAND & ASSOCIATES, P.C.

/s/ Daniel L. Freeland

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CERTIFICATE OF SERVICE

I hereby certify that on Jan. 23, 2020, a copy of the foregoing was filed electronically with the Clerk of the Court using the CM/ECF System, which sent notification of such filing to all counsel of record.

/s/ Daniel L. Freeland

Daniel L. Freeland